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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEE, PHILIP C

ART UNIT PAPER NUMBER

2152

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/746,270	GARGIULO ET AL.	
Examiner	Art Unit	
Philip C. Lee	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This action is responsive to the amendment and remarks filed on March 14, 2006.
2. Claims 11-30 are presented for examination and claims 1-10 are canceled.
3. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Claim Rejections - 35 USC 103

4. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable Dusse et al, U.S. Patent 6,647,260 (hereinafter Dusse).
5. Dusse is cited in the previous office action.
6. As to claim 11, Dusse discloses the invention substantially as claimed including a method for downloading media content sent over a communication system to a mobile station (Fig. 1, and abstract), the method comprising:

requesting media content by sending message with a header including a mobile identification number from said mobile station (provisioning request, and device identification information, col. 5, lines 6-10,15-16); receiving a message with said media content (col. 7, lines 32-34), a reply Universal Resource Locator (URL) identifying a server and a transaction identification at said mobile station (col. 7, lines 35-38); temporarily saving the media content

within said mobile station and previewing at least a portion of the media on the mobile station (terms conditions and related information are pushed to the mobile station, hence, temporarily stored, until it is previewed and accepted, col. 8, lines 35-47); sending a primitive with the mobile identification number to the server identified by the URL from said mobile station (col. 6, lines 55-58; and col. 7, lines 35-40); and permanently saving the media content within the mobile station only when permission to save has been received (col. 7, lines 32-40).

7. Dusse does not explicitly disclose a reply URL identifying a server and a transaction identification as part of the received message. However, Dusse discloses that the content forwarded to the mobile station included information required to communicate with limited access commercial services devices (col. 7, lines 32-41). It would have been obvious to one skilled in the art at the time of the invention that such information would include a URL for "say" a billing service, as well as transaction identification in order to facilitate billing charges for accounting purposes.

8. As to claim 12, Dusse discloses said message with said media content, said reply URL and said transaction identification conforms to a Multimedia Internet Mail Extension (MIME) format (col. 7, lines 32-36; and col. 8, lines 38-40).

9. As to claims 13 and 14, Dusse discloses sending a message from said mobile station to said server to update a usage record employing said reply URI, when said mobile station uses said media content (col. 5, lines 15-21; col. 6, lines 55-57; col. 7, lines 63-67; and col. 8, lines 1-

4). It would have been obvious to one skilled in the art at the time of the invention that this billing activity should lead to user receiving a bill indicating use of said media content by said mobile station.

10. As to claim 15, Dusse discloses the communication system includes a secure connection between said mobile station and said server (col. 8, lines 5-12).

11. As to claim 16, the claim is rejected for the same reasons as claims 11-14 above. In addition, Dusse discloses a method of downloading media content to a mobile station (Fig. 1; and abstract), comprising: requesting "a ring tune deck" from a media server by entering a Universal Resource Locator (URL) thereof (col. 3, lines 28-30; and col. 5, lines 12-14); providing a media deck corresponding to said ring tune deck to said mobile station, selecting a category from said media deck, providing specific links to ring tuned based on said category selected from said media deck, and selecting a ring tune from said specific links to said ring tunes (providing a menu and selecting a menu item out of another menu items is known in the art, e.g. col. 5, lines 40-65; and Fig. 2); generating a transaction number based on selecting "said ring tune" (content may include information to communicate with commercial server devices for billing, i.e. transaction information, col. 7, lines 35-40) and sending a file that conforms to a Multimedia Internet Mail Extension (MIME) format with "a ring tune" (col. 7, lines 32-36; and col. 8, lines 38-40) and a reply URL (content may include information to communicate with commercial server devices col. 7, lines 35-38) to said mobile station (col. 8, lines 34-40); verifying a format of said file and temporarily storing said file within said mobile station (terms,

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conditions and related information are pushed to the mobile station, hence, temporarily stored, until it is previewed and accepted, col. 8, lines 35-47); generating a primitive using said reply URL (col. 6, lines 55-58; and col. 7, lines 35-40) upon acceptance of said file and sending an acceptance message to said media server (col. 8, lines 41-51); creating a usage record from said acceptance message (col. 5, lines 15-21; col. 6, lines 55-57; col. 7, lines 63-67; and col. 8, lines 1-4); transmitting a confirmation reply message to said mobile station (776, Fig. 7C); permanently storing said file within said mobile station (col. 7, lines 32-40), and reporting and updating said usage record upon use of "said ring tune" employing said reply URL (col. 7, line 63 to col. 8, line 4).

12. Dusse does not explicitly disclose downloading a ring tune deck to select a ring tune. However, Dusse discloses downloading other service features such as provisioning services to the mobile station. It would have been obvious to one skilled in the art at the time of the invention that Dusse's method and system can be utilized to use a service server to download any type of service requested by a user including a ring tune deck for the selection of a ring tune.

13. As to claims 17-19, Dusse discloses said URL is selected from a pre-stored list of URLs, viewing a plurality of URLs on a special menu of a display of said mobile station, and pressing a selected URL on a special menu of a display of said mobile station to invoke a browser thereof (col. 5, lines 50-65).

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14. As to claim 20, Dusse discloses the request includes a header with a mobile identification number of said mobile station (provisioning request, and device identification information, col. 5, lines 6-10,15-16).

15. As to claim 21, Dusse discloses a carrier network routes said request to said media server through an Internet via a wireless application protocol gateway (Fig. 1; and col. 4, lines 27-43).

16. As to claim 22, Dusse discloses said specific link to said ring tunes is shown on a display of said mobile station (col. 5, lines 40-65; and Fig. 2).

17. As to claim 23, Dusse discloses selecting said ring tune is performed by scrolling through said specific links to ring tunes using a scroll key and soft keys or depressing a key of said mobile station (col. 5, lines 40-65; and Fig. 2).

18. As to claim 24, Dusse discloses the reply URL is programmably generated by said media server (content may include information to communicate with commercial server devices, col. 7, lines 35-38).

19. As to claim 25, Dusse discloses generating a database record associated with said transaction number (col. 7, line 63 to col. 8, line 4).

20. As to claim 26, Dusse discloses said file further includes said transaction number and a label tag (content may include information to communicate with commercial server devices col. 7, lines 35-38).

21. As to claim 27, Dusse discloses discarding said file, or accepting said file following said act of verifying (col. 8, lines 34-45). As Dusse does not disclose downloading "a ring tune", he obviously does not disclose listening to said ring tune. However, approval by the user prior to implementation (col. 8, line 38) amount to previewing before acceptance for the pushed information, so if this information is audio information, then obviously "listening" is previewing.

22. As to claim 28, Dusse discloses storing said usage record on a transaction server (col. 7, line 63 to col. 8, line 4).

23. As to claim 29, Dusse does not necessarily disclose providing a credit based on selecting "said ring tune" or any service feature. However, it would have been obvious to one skilled in the art at the time of the invention that many of billing policies may be implemented in the billing server, obviously including providing a credit based on selecting a specific service feature.

24. As to claim 30, Dusse discloses updating a bill for said mobile station based upon said usage record (col. 7, line 63 to col. 8, line 4).

25. Claims 11 and 16 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Vazvan (WO 00/36857) in view of Ronen et al, U.S. Patent 5,905,736 (hereafter Ronen).

26. Vazvan is cited by the applicant in IDS paper files 3.21.2003, and Ronen is cited by in a previous office action.

27. As to claim 11, Vazvan discloses the invention substantially as claimed including a method for downloading media content sent over a communication system to a mobile station (Fig. 1), the method comprising: requesting media content by sending message with a header including a mobile identification number from said mobile station (p2, lines 10-12); receiving a message with said media content (p2, lines 10-12), a reply Universal Resource Locator (URL) identifying a server and a transaction identification at said mobile station (p8, lines 9-19); temporarily saving the media content within said mobile station and previewing at least a portion of the media on the mobile station (p3, lines 19-22; p4, line 28); sending a primitive with the mobile identification number to the server identified by the URL from said mobile station (p8, lines 16-19).

28. Vazvan does not associate finishing the process by permanently saving the media content within the mobile station only when permission to save has been received. Ronen, on the other hand, discloses finishing a request for media after permission from a billing mechanism has been received (col. 7, lines 30-60). It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Vazvan and Ronen, because Ronen transaction billing

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confirmation would ensure a transparent billing process for the downloaded media in Vazvan's system.

29. As to claim 16, the claim is rejected for the same reasons as claim 11 above. In addition, Vazvan discloses a method of downloading media content to a mobile station (Fig. 1), comprising: requesting "a ring tune deck" from a media server by entering a Universal Resource Locator (URL) thereof and providing a media deck corresponding to said ring tune deck to said mobile station, selecting a category from said media deck, providing specific links to ring tuned based on said category selected from said media deck, and selecting a ring tune from said specific links to said ring tunes (p7, lines 21-26).

30. Vazvan does not necessarily disclose sending a file that conforms to a Multimedia Internet Mail Extension (MIME) format. However, it is well known and obvious in the art that MIME is part of HTTP and both web browsers and HTTP servers use MIME to interpret e-mail files they send and receive. A MIME compliant application sending a file, assigns a MIME type to the file, the receiving application, which must also be MIME-compliant, refers to a standardized list that are organized into MIME types and subtypes to interpret the contents of the file. It would have been obvious to one skilled in the art at the time of the invention to use MIME format file to permit data including multimedia to be e-mailed from the server to the client.

31. Applicant's arguments with respect to claims 11-30, filed 3/14/06, have been fully considered but are not deemed to be persuasive.

32. In the remark applicant argued that

(1) Dusse fails to teach temporarily storing and previewing the media content, and permanently saving the media content within the mobile station only when permission to save has been received as claimed in claim 11. Similar argument is presented for claim 16.

(2) Vazvan and Ronen fail to teach permanently saving the media content within the mobile station when permission to save has been received as claimed in claim 11. Similar argument is presented for claim 16.

33. In response to point (1), Dusse teaches receiving of content (software modules) and terms, conditions and related information associated therewith (SMS messages). Both software modules and SMS message are certainly consider as “media” contents. Dusse teaches upon processing of a request from the mobile station, terms, conditions, and related information associated therewith (SMS message) are pushed to the mobile station. This means the pushed data must be temporarily stored until it is preview by the user. After preview by the user, the user can accept the terms, conditions, and related information associated therewith (permission to save), content (software modules) are stored in the storage (permanently stored) (col. 8, lines 35-47; col. 7, lines 32-40). As explained above, both software module and SMS messages are considered as media content. Thus, Dusse teaches the method of temporarily storing and previewing the media content, and permanently saving the media content within the mobile station only when permission to save has been received as claimed in claim 11.

Claim 16 is rejected for the similar reason set forth for claim 11 above.


34. in response to point (2), Vazvan teaches permanently saving the media content within said mobile station (use the musical as a ring tone, hence, it must be permanently saved) (page 4, lines 28-29; page 2, lines 10-12). Vazvan did not teach permanently saving only when permission to save has been received. Ronen teaches permanently saving when a permission from a billing mechanism has been received from a user (col. 7, lines 37-60). Thus, the combination of Vazvan in view of Ronen teach the method of permanently saving the media content within the mobile station when permission to save has been received as claimed in claim 11. Claim 16 is rejected for the similar reason set forth for claim 11 in response to point (2) above.

35. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Lee whose telephone number is (571) 272-3967. Any inquiry of a general nature or relating to the

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status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Philip Lee



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